

IN RE: Appointment of Umpire for)
HAYES FAMILY TRUST, on Behalf of)
Itself and All Others Similarly Situated,) Case No. CIV-14-0108-C
CLAYTON A. HAYES, co-trustee.)

Petitioner owns property insured by State Farm Fire and Casualty Company (“State Farm”). When that property was damaged, Petitioner made a claim on State Farm. Unable to reach resolution of the damage claim, Petitioner filed two cases in the District Court of Oklahoma County. The first was a petition for appointment of umpire, and the second was a breach of contract and bad faith case. State Farm removed the cases to this Court. It is the appointment of umpire case at issue here.

On September 30, 2014, the Court conducted a hearing on Petitioner's request for appointment of umpire and appointed an umpire. Petitioner now seeks dismissal of this action pursuant to Fed. R. Civ. P. 41(a)(2). According to Petitioner, after consideration of the facts, it now wishes to dismiss this action so that its other case, the bad faith case, can proceed and a jury, rather than an umpire, determine the amount of loss due to the May 31, 2013, storm.

The fatal flaw in Petitioner's request is the fact that it was Petitioner who initiated the appraisal process. The Oklahoma Supreme Court has held that the appraisal award is binding on the party which invokes the process. See Massey v. Farmers Ins. Grp., 1992 OK 80, ¶ 18, 837 P.2d 880, 884. Because Petitioner is bound by the determination of the umpire, dismissal of this case in order to pursue a separate case seeking a jury determination of

awards would run afoul of Oklahoma law. As no other relief is sought at this time, the Court will again administratively close the case.

For the reasons set forth herein, Petitioner's Motion for Dismissal Without Prejudice (Dkt. No. 22) is DENIED. This matter is administratively closed pending completion of the appraisal process and either party may seek to reopen the case to complete any necessary steps in confirming that award within 30 days after the umpire has made its determination.

IT IS SO ORDERED this 3rd day of December, 2014.



ROBIN J. CAUTHRON
United States District Judge